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COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-ninth session
Agenda item 1 (c)

# ORGANIZATION OF WORK: METHODS OF WORK OF THE SUB-COMMISSION

## Report of the sessional working group on the methods of work of the Sub-Commission, established pursuant to Sub-Commission decision 1997/102

Chairman-Rapporteur: Mr. Marc Bossuyt

1. At its 3rd meeting, on 5 August 1997, the Sub-Commission, upon the recommendation of its officers, decided to establish a sessional working group on the methods of work of the Sub-Commission (decision 1997/102). The task of the working group was (a) to consider the working paper on methods of work of the Sub-Commission prepared by Mr. R. Hatano pursuant to Sub-Commission decision 1996/114 (E/CN.4/Sub.2/1997/3) and (b) to exchange views among the members in connection with other aspects of the work of the Sub-Commission with the purpose of making appropriate suggestions and recommendations to the plenary of the Sub-Commission.

2. Following nominations made by the various regional groups, the Sub-Commission approved the following composition of the working group: Mr. M. Alfonso-Martínez, Mr. M. Bossuyt, Mr. S. Chernichenko, Mr. R. Hatano, Mr. M. Mehedi. Mr. Bossuyt was elected Chairman-Rapporteur by acclamation.

3. The working group held one meeting, on 6 August 1997. It was open to all members of the Sub-Commission. The meeting was also attended by observers for States and intergovernmental and non-governmental organizations.

4. The working group had before it the working paper prepared by Mr. Hatano, which was introduced by the author.

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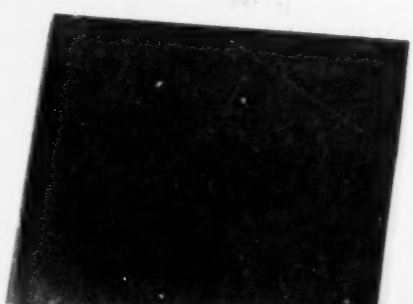

5. In the course of its meeting, the working group was able to consider rules 1 to 38 of the "Draft compilation of rules of procedure, guidelines and practices applicable to the Sub-Commission", as contained in the working paper prepared by Mr. Hatano.

6. Some of the rules were orally revised by Mr. Hatano. In the course of the discussion, members of the Sub-Commission also introduced several proposals with a view to modifying, supplementing or deleting some of the rules.

7. The following rules received no comments from the participants of the working group: 4, 7 to 12, 14, 17 to 19, 21, 23, 25, 27, 30 to 38.

8. The discussion concentrated mainly on the following rules and/or issues:

(a) Rule 2 (Date of opening). It was felt that the date of opening of sessions should not necessarily be fixed in the rules of procedure. The issue of extending the duration of Sub-Commission session was referred to. It was decided not to take a decision on this issue. On the question of observing, at the commencement of each session, "a minute of silence in honour of victims of all forms of violations of human rights in all regions of the world", it was felt that the words "in honour of victims" could be better replaced by "in memory of victims". No consensus was reached on the proposal to delete the words "all forms of" or on the suggestion to add a reference to specific categories of persons, which was found by some experts to be restrictive;

(b) Rules 5 and 6 (Drawing up of the provisional agenda and communication of the provisional agenda). It was felt that the question of the persons/bodies entitled to propose new items for inclusion in the provisional agenda of the Sub-Commission should be further considered with a view to limiting their number. The issue of documentation was also raised in connection with the rules, and it was proposed that a provision requesting the Secretariat to send to the experts all available documents well in advance of the session (at least three weeks before) should be included in the guidelines. According to another proposal, the experts should be requested, in a separate guideline or rule, to respect the 10-week deadline for the submission of reports, studies and working papers with which they had been entrusted;

(c) Rule 13 (Alternates). A proposal was made to study the possibility of electing alternates independently, rather than simultaneously with members. The issue of the role of alternates, including their membership in working groups and their participation in Sub-Commission debates together with members, was also discussed at length;

(d) Rule 15 (Election of officers). It was proposed that the officers should normally be elected in turns from the five geographic regions "unless the Sub-Commission decides otherwise";

(e) Rule 16 (Terms of office). There was agreement that the provision prohibiting the re-election of the Chairperson and the Rapporteur might be dropped;

(f) Rule 20 (Voting rights of the officers). It was generally felt that the Chairperson should continue to refrain from exercising his or her voting rights;

(g) Rule 24 (Rules of procedure). It was felt that rule 20 of the rules of procedure should not apply to the proceedings of its working groups;

(h) Rule 28 (Estimates of expenditure). It was noted that the Secretariat had for some time not been providing the Sub-Commission with the estimates of the programme budget implications of the proposals which were before it;

(i) Rule 29 (Official and working languages). Some experts stated that the issue of the official and working languages needed further clarification.

9. The issue of the nature of the exercise being undertaken with respect to the document submitted by Mr. Hatano and the follow-up to be given to it was also raised in the course of the debate.

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Sub-Commission on Prevention of
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CONTEMPORARY FORMS OF SLAVERY

Letter dated 11 August 1997 from the Chargé d'Affaires a.i. of the Permanent Mission of the Democratic People's Republic of Korea to the United Nations Office in Geneva, addressed to the Chairman of the forty-ninth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities

I have the honour to submit, enclosed herewith, a document entitled "Views of the Government of the Democratic People's Republic of Korea on crimes committed by Japan against humanity, including the issue of comfort women" and to ask you kindly to have it circulated as an official document 1/ of the forty-ninth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities under item 6, "Contemporary forms of slavery".

(Signed) Han Chang On
Chargé d'Affaires a.i.

1/ The attachment is reproduced in the language of submission only.

Annex

Views of the Government of the Democratic People's Republic of Korea on crimes committed by Japan against humanity, including the issue of "comfort women"

The Government of Japan is now seizing every opportunity to describe Japan as taking a somewhat "positive response" to the case of the "comfort women for the army". The "positive response" of Japan includes the following:

(i) Sincere apology of the Government, including a letter of apology from the Prime Minister;

(ii) Government assistance to the Asian Women's Fund (AWF);

(iii) Offering "atonement money" from the AWF to the victims;

(iv) Medical welfare support projects financed by the Government;

(v) Efforts in the educational field, etc. (see E/CN.4/Sub.2/AC.2/1997/5).

Of course, this response appears to be judged as a change in the attitude of Japan compared with the time when the case of the "comfort women for the army" was first raised at the United Nations. However, people do not know down to the bottom the real motive of Japan veiled in the "changed attitude".

The international community may remember that, at the initial stage, when the issue of "comfort women for the army" was made public to the world and raised at the United Nations, the Government of Japan showed strong objection to it in order to shirk its responsibility, saying it was the act of civilians.

It is also a known fact that, after it was confirmed as a crime committed by the Government, the Government of Japan strongly objected to its discussion at the United Nations, talking about "statutory limitation" and "an act committed before the establishment of the United Nations".

Why, then, is the Government of Japan now begging for the understanding and indulgence of the international community, while mouthing about an "apology" and a "civilian fund"? It is because the crime committed by Japan is too clear and serious for Japan to challenge the just and above-board demands of the international community, which loves and cherishes justice.

As acknowledged, the Japanese crime of "comfort women for the army" is an atrocity against humanity executed by Japan by mobilizing its State powers. And this is a great State crime, for which a precedent cannot be found.

Nevertheless, the Government of Japan is trying to deceive the international community with cajolery and tricks and bury its past grave crime in the black curtain of history forever, instead of recognizing its State and legal responsibility for it.

It is a mockery of human justice and conscience that should never be tolerated.

Settling the issue of such crimes committed by Japan in the past is a pressing task before the international community in its process of terminating, once and for all, all sorts of human rights violations, including outrageous abuses against women and children throughout the world.

1. Our view on the apology of Japan

The Government of Japan has so far expressed on several occasions sincere "apology" and "remorse" with regard to the "comfort women for the army" case. And it is said that, since August 1996, the Prime Minister has been sending his letter along with atonement money from the "Asian Women's Fund" to the former "comfort women for the army", in which letter he once again personally expressed "apology" and "remorse" on behalf of the Government. Certainly it is true that it was conveyed to some individual victims in the Philippines and the Republic of Korea.

However, we should correctly see the ulterior motive of Japan behind the "letter of apology". The Government of Japan explains that the Prime Minister's "letter of apology" proceeds from Japan's moral responsibility. Moral responsibility is different from legal responsibility. The "comfort women for the army" case is a matter for which State legal responsibility should be recognized by Japan, as it is a crime organized and committed by the Government and Japanese army in the past.

The victims of the "comfort women for the army" crime, and the Governments and organizations concerned demand Japan's recognition of its legal responsibility and an apology based on it. They should be proved by practical actions, not by a few hypocritical words.

If the Prime Minister's "apology" is sincere, the Government of Japan will be able to easily recognize its legal responsibility. And, also if that "apology" is sincere, the responsibility should be borne by the Government itself, not by individual persons or a "civilian fund" such as the "Asian Women's Fund".

As long as legal responsibility is not recognized, such an apology is nothing but empty talk, even if it is made by the Emperor instead of the Prime Minister.

How can we recognize such an apology as a sincere one, in the absence of a recognition of responsibility? Japan is trying to escape from its legal responsibility while saying it is making an apology. This is just a double-faced hypocritical pose; the real intention of Japan is to negate the past crime itself.

2. Our view on the issue of compensation

The Government of Japan is seizing every opportunity to emphasize that it is providing all possible assistance to the fund-raising activities conducted by the "Asian Women's Fund" among the people, with a view to

settling the compensation issue with the former "comfort women for the army". The Government of Japan explains that this is to express the atonement of the Japanese people for the "comfort women for the army".

As mentioned above, the system of "comfort women for the army", administered and operated by the old Japanese army against 200,000 Asian women, is a grave crime of human rights violations whose brutality and bestiality have no precedent in history, as it was planned and organized by the State itself.

Therefore, the Government of Japan should duly recognize its legal responsibility in this matter and provide compensation on a State basis.

Notwithstanding, the Government of Japan has no scruples in shirking its responsibility for compensation. The "civilian fund", called the "Asian Women's Fund" is one means by which it is doing so.

The "Asian Women's Fund" is an organization of a civilian nature which collects "donations" from individual Japanese people and distributes them in part to the survivors among the former "comfort women for the army".

The "civilian fund" formula can never solve the issue of the legal responsibility of the Government of Japan, which constitutes a core element in settling the "comfort women for the army" case.

The basic problem of compensation for the "comfort women for the army" is not whether the victims receive money or not, but whether or not the Government of Japan, as the perpetrator, makes compensation based on the recognition of State legal responsibility.

If the "civilian fund" formula is applied, it means that the Government is dealing with the "civilian fund", to which it even contributes money. Accordingly, it is construed that the Government has nothing to do in legal terms with the former "comfort women for the army" or further, with the victimized States. And since the "civilian fund" performs the function of delivering to the former "comfort women for the army" money collected from ordinary citizens, it is merely a "mediator" and the money is nothing but a "charity fund" coming from the pockets of ordinary people. In other words, the "civilian fund" formula does not deal with the compensation on the basis of legal responsibility but administers the matter on a moral basis in the form of a "charity fund" or "consolatory fund". Herein lies the cunning trick of Japan, which is trying to shuffle off its State responsibility onto a civilian organization and turn the matter of legal responsibility into one of charity.

Compensation for the "comfort women for the army" should be settled as a part of the overall legal procedure of thoroughly investigating and examining the facts and punishing the criminals, on the basis of the recognition by the Government of Japan of its responsibility for violating international law.

Ms. Radhika Coomaraswamy, Special Rapporteur of the Commission on Human Rights on violence against women, pointed out in her report contained in

document E/CN.4/1996/53/Add.1 that the Government of Japan should recognize its responsibility under international law and make State compensation.

In the light of the demand from the international community, the "civilian fund" formula raised by the Government of Japan is nothing but a trick to show off its "philanthropism" with a small and trifling fund. And the "civilian fund" formula was adopted in an attempt to calm down other demands for war-time compensation. It is a mere artifice to hoodwink the "law and justice" of the international community at all costs.

3. Our viewpoint on the enlightenment of education and social consciousness

It is mentioned that the Government of Japan attaches great importance to heightening the social consciousness of the Japanese people on the problem of "comfort women for the army", as well as to school education.

However, we wish to consider how this problem is being discussed and recognized in reality.

A high-ranking official of the Government openly described the victims of the "comfort women for the army" system as "prostitutes" and some local autonomous bodies have adopted a resolution which requires that the problem of "comfort women for the army" not be mentioned in school textbooks.

Cabinet ministers and high-ranking politicians have let fall offensive remarks justifying and praising the past crimes of Japan and the Prime Minister took the lead in visiting the "Yashuguni Shrine". Such attempts at instigating militarism have been conducted in broad day.

On the other hand, Sankei Shimbun and other Japanese publications have carried a series of articles negating the true facts about the forced drafting of "comfort women for the army" and the strategic propaganda has been strengthened through the mass media which are employed in distorting the historical facts.

The reality of the situation illustrates the sheer falsehood of the Government's allegation that it has devoted its efforts to making the people understand history on an unbiased basis.

Mrs. Mutsuko Miki, wife of the former Prime Minister, and other figures who once sponsored the "civilian fund" advertised extensively by Japan felt really disappointed and disillusioned about acts of the Government of Japan which have been proved to be impudent and illogical, otherwise they would not have left the "fund" and rejected it.

Such acts of the Government of Japan committed in defiance of the demands and opinions of the international community, are yet further examples of it insulting the sense of justice and the consciousness of international society, let alone the victims.

4. Our viewpoint on the problem of settling the past between the Democratic People's Republic of Korea and Japan

As a matter of fact, the grave crimes against humanity committed by Japan in the past are not confined to the crime of "comfort women for the army". This problem is just the tip of an iceberg.

In the past, Japan tortured and massacred people in groups in every part of Asia and forced them into slave labour. They also committed numerous crimes violating human rights, as well as war crimes, and even conducted the living-body test in Unit 731 for bacteriological warfare.

No words can adequately express all sufferings, including misfortunes, pains and calamities imposed upon the Korean people during the period of more than 40 years under Japanese occupation.

Not satisfied with the mobilization of about 200,000 Korean women into military sexual slavery, the Japanese imperialists forced 6 million young and middle-aged Korean people into slavery in the workplace and on the battlefield, and massacred as many as 1 million innocent Korean people.

In addition, the Japanese imperialists imposed the "Japanization of Korean names" upon the Korean people and conducted an evil campaign to force the Korean people not to use their own language.

This is not all. From the beginning of its occupation of Korea, Japan ruthlessly destroyed and plundered the cultural relics handed down through generations by our nation and robbed material of its wealth soaked in the sweat and blood of our people, as well as numerous underground resources. They took away everything, including brass spoons and wares. There have been robbers specialized in destruction and plunder in the world, but no such plunder as that of Japan, which took everything, including spoons from another country.

As mentioned above, Japan intentionally tried to eliminate the country of Korea, exterminating the Korean nation by using the most brutal colonial ruling methods, unprecedented in history.

The crimes committed by Japan in Korea are too many to be enumerated in the provisions of present international laws and customary laws.

Whenever it announces that it is taking a stand concerning the settling of its past, the Government of Japan fails to mention even a single word about the Democratic People's Republic of Korea, which suffered the severest damage. This is because Japan is reluctant to clarify its crimes in Korea, which far surpass all the crimes committed in the whole Asian region.

Furthermore, Japan is not willing to clarify that it has not settled the past with the Democratic People's Republic of Korea, which suffered the severest damage, for fear that it will mean admitting that Japan's boisterous mouthing about a "sincere apology for the past" and a "contribution to the international community" is merely empty talk.

The Government of Japan should not do a sloppy job in connection with its past crimes by using so-called "means", but must be bold and frank in recognizing its past crimes, and compensate those it has to compensate even now, although it is belated.

By doing so, the Government of Japan could expect trust from the international society.

## 5. Conclusion and our request

The Government of Japan should admit its legal responsibility for the military sexual slavery crimes committed by the Japanese imperialists during the Second World War. For against this historical background violation and discrimination against women and children are re-emerging even today in areas of armed conflicts, because criminal acts against morality, including crimes committed by Japan, have not been fairly resolved and the criminals not yet punished.

It is clear that Japan can in no way avoid its legal responsibility for heinous crimes against human rights committed against the Korean people and all mankind, and that Japan can never regain international trust as long as it does not make active efforts to cleanse its criminal dishonour.

We avail ourselves of this opportunity to appeal to the conscience and justice of the international community not to assess Japan's proposal for the "civilian fund" as a positive move, but lend an ear to the voices of the victims and the Governments of the victimized countries and organizations concerned.

We appeal to the United Nations to pay attention to the past crimes committed by Japan and urge it to fulfil its legal responsibility.

We call upon once again the Government of Japan to apologize honestly before the Korean people and mankind for its crimes and make due compensation.

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